

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 FRANK D'AGOSTINO,

4 Plaintiff,

5 v.

6 NAUGHTON, *et al.*,

7 Defendants.
8

Case No. 3:20-cv-00480-RCJ-WGC

ORDER

9 **I. DISCUSSION**

10 On January 14, 2021, following Defendants' filing of a suggestion of death on the
11 record stating that Plaintiff Frank D'Agostino (#32883) had passed away on January 3,
12 2021, the Court issued an order allowing a 90-day period from the date of the order for a
13 motion for substitution to be filed by any party or by the decedent's successor or
14 representative. (ECF No. 13).

15 Pursuant to Federal Rule of Civil Procedure 25(a)(1), "[i]f a party dies and the claim
16 is not extinguished, the court may order substitution of the proper party. A motion for
17 substitution may be made by any party or by the decedent's successor or representative.
18 If the motion is not made within 90 days after service of a statement noting the death, the
19 action by or against the decedent must be dismissed." Fed. R. Civ. P. 25(a)(1).

20 The 90-day period has passed and there has been no motion for substitution. As
21 such, the Court dismisses the case.

22 **II. CONCLUSION**

23 For the foregoing reasons, IT IS ORDERED that the Court dismisses this case
24 pursuant to Fed. R. Civ. P. 25(a)(1).

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1 IT IS FURTHER ORDERED that the Clerk of the Court will close the case and
2 enter judgment accordingly.

3 DATED THIS 28th day of April 2021.

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6 ROBERT C. JONES
7 UNITED STATES DISTRICT JUDGE
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